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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,148	03/24/2004	Masaharu Itaya	50024-027	3704

7590 11/13/2008  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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MARTIN, ANGELA J

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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11/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,148	<b>Applicant(s)</b> ITAYA ET AL.	
	<b>Examiner</b> ANGELA J. MARTIN	<b>Art Unit</b> 1795	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) 10-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/21/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This Office Action is responsive to the Remarks filed on July 21, 2008. The Applicant has perfected the foreign priority filing date by submitting certified English translations of the foreign priority documents, JP 2003-085138 and JP 2003-089077. Therefore, a new rejection is presented for the following reasons of record.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chu May-Ying, WO 96/16450.

Chu May-Ying teaches a non-aqueous electrolyte secondary battery comprising a positive electrode (p. 7, lines 3-7), a negative electrode (p. 26, lines 17-21), and a non-aqueous electrolyte (p. 8, lines 28-29 and p. 9, lines 1-8), wherein said positive electrode includes elemental sulfur (p. 7, lines 3-7), and said negative electrode includes silicon that stores lithium (p. 26, lines 17-21)); and liquid non-aqueous electrolyte includes quaternary ammonium salt (p. 8, lines 28-29, p. 9, lines 1-8; p. 26, lines 1-8). It teaches electrolyte includes a room temperature molten salt having

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melting point of not higher than 60 deg C (p. 29, lines 19-21). It teaches molten salt/quaternary salt includes trifluoromethanesulfonimide (p. 26, lines 1-8). It teaches wherein the non-aqueous electrolyte secondary battery wherein said non-aqueous electrolyte further includes at least one type of solvent selected from the group consisting of cyclic ether, chain ether, and fluorinated carbonate (p. 25, lines 6-11). The non-aqueous electrolyte secondary battery according to claim 6, wherein said cyclic ether includes at least one type selected from the group consisting of 1,3-dioxolane and tetrahydrofuran; said chain ether preferably includes 1,2-dimethoxyethane (p. 25, lines 6-11) teach the non-aqueous electrolyte secondary battery according to claim 1, wherein the non-aqueous electrolyte secondary battery according to claim 1, wherein said silicon is an amorphous silicon thin film or a microcrystalline silicon thin film (p. 26, lines 17-21). The non-aqueous electrolyte secondary battery according to claim 1, wherein a conductive agent is added to said positive electrode (p. 31, lines 1-9).

Thus, the claims are anticipated.

### ***Response to Arguments***

3. Applicant's arguments with respect to above claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANGELA J. MARTIN whose telephone number is

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(571)272-1288. The examiner can normally be reached on Monday-Friday from 10:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJM  
/Angela J. Martin/  
Examiner, Art Unit 1795